

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KELLY GUERRERO, §
Plaintiff §
vs. § Civil Action No. 5:19-cv-1
REALOGY OPERATIONS LLC D/B/A §
COLDWELL BANKER REAL ESTATE, §
Defendant. §

DEFENDANT'S NOTICE OF REMOVAL

Under 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Realogy Operations LLC d/b/a Coldwell Banker Real Estate¹ (“Realogy Operations” or “Defendant”) files this Notice of Removal, giving notice that it is removing this civil action to the United States District Court for the Western District of Texas, San Antonio Division, based on diversity jurisdiction. In support of this Notice of Removal, Defendant shows:

I.
PROCEDURAL OVERVIEW

1. On November 21, 2018, Plaintiff Kelly Guerrero filed this civil action, Cause No. 2018CI22164, in the 150th Judicial District Court of Bexar County, Texas, styled *Kelly Guerrero vs. Realogy Operations LLC d/b/a Coldwell Banker Real Estate* (the “State Court Action”). *See* Ex. D-2. Plaintiff demanded a jury trial. *See id.*

2. Defendant Realogy Operations’ Notice of Removal is accompanied by copies of the following materials:

- Exhibit A: Declaration of Patrick A. Treacy

¹ Plaintiff improperly named Realogy Operations LLC D/B/A Coldwell Banker Real Estate as Defendant in this matter. Coldwell Banker Real Estate LLC was Plaintiff’s employer and is the correct party to the Lawsuit.

- Exhibit B: Declaration of Tanya Reu-Narvaez
- Exhibit C: State Court Action Docket Sheet
- Exhibit D: Index of Filings in State Court Action
 - Exhibit D-1: Civil Case Information Sheet
 - Exhibit D-2: Plaintiff's Original Petition
 - Exhibit D-3: Citation to Realogy Operations LLC d/b/a Coldwell Banker Real Estate
 - Exhibit D-4: Citation to Realogy Operations LLC d/b/a Coldwell Banker Real Estate and Executed Officer's Return
 - Exhibit D-5: Defendant's Original Answer to Plaintiff's Original Petition

3. On December 3, 2018, Defendant Realogy Operations was served with a copy of Plaintiff's Original Petition. *See Ex. D-4.*

4. On December 21, 2018, Defendant Realogy Operations timely filed its Original Answer to Plaintiff's Original Petition in the State Court Action. *See Ex. D-5.*

5. On January 2, 2019, Defendant Realogy Operations timely filed its Notice of Removal to this Court. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) because it is being filed within thirty days after Defendant Realogy Operations first received a copy of Plaintiff's Original Petition.

6. Removal is proper to this Federal District Court and division because it embraces Bexar County, Texas, the place in which the State Court Action is pending. *See 28 U.S.C. § 1441(d).*

7. As required by 28 U.S.C. § 1446(d), Defendant will provide prompt written notice of the filing of this Notice of Removal to all adverse parties and will file a copy of it with the Clerk of the 150th Judicial District Court of Bexar County.

II.
GROUND FOR REMOVAL—DIVERSITY JURISDICTION

8. This Court has subject matter jurisdiction in this case based upon diversity jurisdiction. 28 U.S.C. § 1332. Diversity jurisdiction exists in a civil matter when the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and the dispute is between citizens of different states. *Id.* Both requirements are met in this case.

A. The Amount in Controversy Exceeds \$75,000.

9. The amount in controversy exceeds \$75,000, exclusive of interest and costs, because Plaintiff states in his Petition that he “seeks monetary relief over \$200,000 but not more than \$1,000,000...” *See* Ex. D-2, ¶ 28. The amount in controversy, therefore, exceeds \$75,000 and the first removal requirement under 28 U.S.C. § 1332(a) is satisfied.

B. Complete Diversity of Citizenship Exists.

10. Plaintiff is a resident of San Antonio, Texas in Bexar County. *See* Ex. D-2, ¶ 1.

11. A corporation is a citizen of both the state where it is incorporated and the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1). Defendant Realogy Operations is a California Limited Liability Corporation with its principal place of business located in Madison, New Jersey. *See* Ex. A, Declaration of Patrick A. Treacy, ¶¶ 2–3. Similarly, Coldwell Banker Real Estate LLC, the proper party to the Lawsuit, is a California Limited Liability Corporation with its principal place of business located in Madison, New Jersey. *See* Ex. B, Declaration of Tanya Reu-Narvaez, ¶¶ 2–3.

12. Because there is complete diversity of citizenship between Plaintiff and Defendant Realogy Operations and between Plaintiff and the proper entity to the lawsuit Coldwell Banker Real Estate LLC, the second removal requirement under § 1332(a) also is satisfied.

III.
CONCLUSION AND PRAYER

Because the minimum jurisdictional threshold is met and complete diversity of citizenship exists among the parties, Defendant Realogy Operations respectfully requests that this Court assume jurisdiction over this action and proceed with its handling as if it had been filed in the United States District Court for the Western District of Texas, San Antonio Division.

Dated: January 2, 2019

Respectfully submitted,

/s/ Ryan E. Griffitts

Ryan E. Griffitts
Texas State Bar No. 00796681
Melissa J. Ackie
Texas State Bar No. 24088686

LITTLER MENDELSON
A Professional Corporation
2001 Ross Avenue
Suite 1500, Lock Box 116
Dallas, TX 75201.2931
214.880.8100
214.880.0181 (Fax)
RGriffitts@littler.com

&

LITTLER MENDELSON, P.C.
A Professional Corporation
100 Congress Avenue, Suite 1400
Austin, Texas 78701
512.982.7250
512.982.7248 (Fax)
MAckie@littler.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

On the 2nd day of January 2019, I electronically submitted the foregoing document with the Clerk of the Court using the Electronic Case Filing system of the Court. I hereby certify that I have served all parties of record as follows:

Alfonso Kennard, Jr.
Daniel J. Salas
Kennard || Miller || Hernandez
100 N.E. Loop 410, Suite 610
San Antonio, Texas 78216
alfonso.kennard@kennardlaw.com
daniel.salas@kennardlaw.com
Attorneys for Plaintiff

/s/ Ryan E. Griffitts _____
Ryan E. Griffitts

FIRMWIDE:157130656.6 052776.1015